

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

KENNETH A. PIRNIE,

Plaintiff,

v.

**CATHER & SONS CONSTRUCTION,
INC.,**

Defendant.

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4:05CV3266

ORDER

This matter is before the court on Defendant Cather & Sons Construction, Inc.'s Motion to Compel (Filing No. 49). After reviewing the evidence submitted by Cather & Sons Construction, Inc. and the pleadings contained in the court's file, the Court finds that the parties entered into a Stipulation (Filing No. 40) on August 8, 2006, whereby the plaintiff consented to the issuance of a subpoena on the Nebraska Workforce Development. The Court further finds that a subpoena (dated August 8, 2006) was properly served on Nebraska Workforce Development on August 9, 2006 (Filing No. 50, Ex. 2) and, while the Nebraska Workforce Development objected to the subpoena, it indicated that it would not appear for any hearing, nor would it object to or resist a Motion to Compel (Filing No. 50, Ex. 3). Finally, the Court finds that counsel for Cather & Sons Construction, Inc. and Nebraska Workforce Development made sincere attempts to resolve this dispute pursuant to NECivR 7.1(i). Accordingly,

IT IS ORDERED:

1. Cather & Sons Construction, Inc.'s Motion to Compel (Filing No. 49) is granted.
2. The Nebraska Workforce Development is to produce any and all applications and/or records from 2002 to the present regarding Kenneth A. Pirnie (DOB: 6/25/47) as directed by the August 8, 2006 subpoena.

DATED this 18th day of August, 2006.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge